

L A W   O F F I C E S  
2101 L Street NW • Washington, DC 20037-1526  
Tel (202) 785-9700 • Fax (202) 887-0689  
Writer's Direct Dial: (202) 828-2236  
A5691.0593

August 15, 2005

**NOTICE OF EX PARTE  
COMMUNICATION**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W., TW-A325  
Washington, DC 20554

**Re:   Request to Update Default Compensation Rate for Dial-Around  
Calls from Payphones (WC Docket No. 03-225)**

Dear Ms. Dortch:

On Tuesday, August 9, on behalf of the American Public Communications Council ("APCC"), I met with Tamara L. Preiss, Chief of the Pricing Policy Division and John Stover of the Pricing Policy Division to discuss the above referenced matter. I discussed the views of the APCC which are reflected in the comments and reply comments of the APCC. I pointed out that the only record evidence on actual call volumes showed that even with the decline in call volumes, if the Commission goes forward, the surrogate rate would increase because the decline in call volumes has been more than offset by the increase in the per call dial around rate since the surrogate was last set. Further, since there is no evidence – none – in the record on relative market shares of carriers, in the absence of further proceedings, it would be impossible for the Commission to reallocate the proportion of the surrogate to be paid by each carrier.

I expressed APCC's view that there are pending at the Commission matters of much greater urgency with regard to the payphone industry and the carrier industry than further proceedings in this matter, and observed the lack of response to the NPRM as further evidence of the marginal significance of this proceeding for all concerned.

Indeed this matter is of only marginal significance even to the only carrier to file both comments and reply comments in this proceeding. In the last quarter for which payment was received by APCC Services, the payphone clearinghouse for independent payphone service providers ("PSPs"), somewhere between 11,000 and 15,000 payphones, or well under 5% of the 320,000 payphones for which APCC Services collected dial around compensation, had received any surrogate compensation. Assuming this all came from AT&T, which is allocated the largest share of the surrogate payment – about \$12.00 (actually \$11.96) per month, and the maximum number of payphones were paid the surrogate, AT&T would pay \$540,000 per quarter. If as a

result of further proceedings, a reallocation and reduction<sup>1</sup> in the surrogate rate, AT&T's share of the surrogate were cut by 40%, a more than generous reduction, the total amount involved is \$864,000 on an annual basis.<sup>2</sup> It should be noted that this assumes a maximum savings because all the surrogate payments are allocated to AT&T, which has the highest monthly payment. Of course, some of the surrogate payments are made by other carriers, whose allocation and hence dollar payment is substantially less. In these circumstances, APCC questions the propriety of proceeding on an industry wide basis and causing all parties concerned to use extensive resources to address this issue, to say nothing about whether the time and energy and resources of the Commission should not be spent resolving matters of higher priority to the industries involved.

This notice of ex parte contact is being filed out of time by two days. I regret this oversight. In the interest of not prejudicing any party to the proceeding, this notice is being served by electronic mail to all parties who filed comments.

Please feel free to contact me if there are any questions.

Sincerely



Albert H. Kramer

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<sup>1</sup> As discussed above, on the current record, there could be no reduction in the surrogate rate and there is no record on the issue of reallocation.

<sup>2</sup> While this figure does not take account of RBOC payphones, as APCC pointed out in its comments, RBOC payphones are not particularly affected by the surrogate payments. The surrogate is used primarily when there is a flex ANI failure so that payphone specific coding digits are not transmitted to the carriers. The overwhelming bulk of RBOC payphones continue to be legacy "dumb" payphones which do not rely on flex ANI to transmit the payphone specific coding digits, but rather transmit the payphone specific coding digits through legacy "hardwiring" in the network. Indeed the RBOC Coalition, which includes SBC and Verizon (the two remaining RBOCs with any payphone operations of any significance), filed comments in this proceeding saying it was not worth bothering with an update of the surrogate because the surrogate is of such marginal significance.

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cc: (by electronic mail)  
Tamara L. Preiss  
[Tamara.Preiss@fcc.gov](mailto:Tamara.Preiss@fcc.gov)  
Jon Stover  
[Jon.Stover@fcc.gov](mailto:Jon.Stover@fcc.gov)  
Leonard J. Cali  
[Lcali@att.com](mailto:Lcali@att.com)  
Lawrence L. Lafaro  
[Llafaro@att.com](mailto:Llafaro@att.com)  
Martha L. Marcus  
[marthamarcus@att.com](mailto:marthamarcus@att.com)  
Paul J. Zidlicky  
[Pzidlicky@sidley.com](mailto:Pzidlicky@sidley.com)  
Joseph R. Palmore  
[Jpalmore@sidley.com](mailto:Jpalmore@sidley.com)  
Aaron M. Panner  
[Apanner@khhte.com](mailto:Apanner@khhte.com)  
Blair A. Rosenthal  
[Blair.Rosenthal@qwest.com](mailto:Blair.Rosenthal@qwest.com)  
Daphne E. Butler  
[Daphne.Butler@qwest.com](mailto:Daphne.Butler@qwest.com)  
Robert W. Quinn  
[rwquinn@att.com](mailto:rwquinn@att.com)  
Michael Del Casino  
[delcasino@att.com](mailto:delcasino@att.com)